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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/750,744 | 12/31/2003 | Thomas C. McNamee | 520-20-001 | 1855 |
| 7590 | 10/29/2004 | | EXAMINER | |
| Marvin E. Jacobs KOPPEL, JACOBS, PATRICK & HEYBL Suite 215 2151 Alessandro Drive Ventura, CA 93001 | | | COLETTA, LORI L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3612 | |
| DATE MAILED: 10/29/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------------------|---------------------|-----------|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/750,744 | MCNAMEE, THOMAS C. | |
| | Examiner Lori L. Coletta | Art Unit 3612 | <i>MJ</i> |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,4,8,16-21,24-27,32-36,39,40,42 and 43 is/are rejected.
- 7) Claim(s) 3,5-7,9-15,22,23,28-31,37,38 and 41 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 December 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12312004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 20-23 are objected to because of the following informalities:

Regarding 20, “wherein said: said” (lines 1 and 2) needs to be changed --wherein: said--.

See same deficiency in claims 21-23 (lines 1 and 2).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 18, “said first third length is one-half of said second length” (line 1) is not clear. What is positively recited by “said first third length”?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, 16-21, 24-28, 32-36, and 45, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Ruiz 5,605,369.

Regarding claim 1, Ruiz '369 discloses a vehicle cover system (10), comprising removably attachable mating cover portions (24, 28 and 66) adapted to cover a vehicle (12), and vehicle having a top, a bottom, opposing sides; a front end, and a rear end; each said removably attachable mating cover portion removably attached to and mating (66) with at least one adjacent one of said removably mating cover portions; said removably attachable mating cover portions comprising at least one substantially U shaped cover portion adapted to cover a portion of said top and an adjacent portion of each of said opposing sides of said vehicles; front and rear end portions adapted to cover said front end and said rear end of said vehicle, respectively; said at least one substantially U shaped cover portion having a length selected from the group consisting of a first length (truck bed length), a second length (hood length), and a third length (cab roof length) in Figure 1.

Regarding claim 2, Ruiz '369 discloses the vehicle cover system (10), wherein said at least one substantially U shaped cover portion (28) comprises a least one substantially U-shaped cover portion having said first length in Figure 1.

Regarding claim 4, Ruiz '369 discloses the vehicle cover system (10), wherein said at least one substantially U shaped cover portion (24) further comprises at least one substantially U shaped cover portion having said second length in Figure 1.

Regarding claim 8, Ruiz '369 discloses the vehicle cover system (10), wherein said at least one substantially U shaped cover portion (24) further comprising at least one substantially U shaped cover portion having said third length.

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Regarding claim 16, Ruiz '369 discloses the vehicle cover system (10), wherein the first length comprises a base length; said second length comprises a fractional length of said base length; said third length comprises another fractional length of said base length in Figure 1.

Regarding claim 17, Ruiz '369 discloses the vehicle cover system (10), wherein said first length comprises a base length; said second length comprises a fractional length of said base length; said third length comprises another fractional length of said base length in Figure 1.

Regarding claim 18, Ruiz '369 discloses the vehicle cover system (10) in Figure 1.

Regarding claim 19, Ruiz '369 discloses the vehicle cover system, wherein said vehicle (12) has a lateral length; said first, second, and third lengths are lateral lengths in Figure.

Regarding claim 20, Ruiz '369 discloses the vehicle cover system, wherein said front and rear end portions are substantially the same as one another in Figure 1.

Regarding claim 21, Ruiz '369 discloses the vehicle cover system, wherein said front and rear end portions each have a length which is substantially the same in Figure 1.

Regarding claim 24, Ruiz '369 discloses the vehicle cover system, wherein said vehicle cover system (10) said vehicle (12) in Figure 1.

Regarding claim 25, Ruiz '369 discloses the vehicle cover system, wherein said vehicle (12) has an elongated mid section in Figure 1.

Regarding claim 26, Ruiz '369 discloses the vehicle cover system, wherein said vehicle (12) is a truck in Figure 1.

Regarding claim 27, Ruiz '369 discloses the vehicle cover system, wherein each of said removably attachable mating cover portions (24 and 28) have seams in Figure 1.

Regarding claim 28, Ruiz '369 discloses the vehicle cover system, wherein said seams are reinforcing seams.

Regarding claim 32, Ruiz '369 discloses the vehicle cover system, wherein said removably attachable mating cover portions (66) have zippers (column 4, lines 64-66).

Regarding claim 33, Ruiz '369 discloses the vehicle cover system, wherein said removably attachable mating cover portions (66) have edges and said zippers are fastened to said removably attachable mating cover portions at said edges (column 4, lines 64-66).

Regarding claim 34, Ruiz '369 discloses the vehicle cover system, wherein each of said zippers are fastened to said removably attachable mating cover portions (66), in accordance with the same orientation (column 4, lines 4-66).

Regarding claim 35, Ruiz '369 discloses the vehicle cover system, wherein each of said zippers are fastened to said removably attachable mating cover portions (66) to fasten substantially clockwise facing said front of said vehicle in Figure 1.

Regarding claim 36, Ruiz '369 discloses the vehicle cover system, wherein each of said removably attachable mating cover portions (66) have identifying indicia (snaps, zippers or hook and loop fasteners).

Regarding claim 45, Ruiz '369 discloses the vehicle cover system, wherein said vehicle cover system (10) is flexible, water resistant, and ultraviolet resistance material.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 39, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz 5,605,369 in view of Mazzarelli 5,673,961.

Regarding claim 39, Ruiz '369 discloses the vehicle cover system (10) but does not show wherein each of said removably attachable mating cover portions have at least one vent.

Mazzarelli '961 teaches a protective cover (10) having a vent (28) in Figure 1.

Regarding claim 39, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the removably attachable mating cover portions for the vehicle cover system of Ruiz '369 with a vent, as taught by Mazzarelli '961, in order to exhaust air from the interior of the cover to cause the cover to seat snugly about the surface of the vehicle which it is fitted.

Regarding claim 40, Ruiz '369 discloses the vehicle cover system (10) but does not show wherein each of said removably attachable mating cover portions have at least one adapted to vent each of said removably attachable mating cover portions.

Mazzarelli '961 teaches a protective cover (10) having a vent (28) in Figure 1.

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Regarding claim 40, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the removably attachable mating cover portions for the vehicle cover system of Ruiz '369 with a vent, as taught by Mazzarelli '961, in order to exhaust air from the interior of the cover to cause the cover to seat snugly about the surface of the vehicle which it is fitted.

Regarding claim 41, Ruiz '369, as modified, discloses the vehicle cover system, wherein each of said vents has a top, opposing sides, a bottom and a cover fastened to said top and said opposing sides of said vent.

Allowable Subject Matter

8. Claims 3, 5-7, 9-15, 22, 23, 29-31, 37, 38 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited references show several other vehicle cover systems similar to that of the current invention.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is (703) 306-4614.

The examiner can normally be reached on Monday-Friday 6:00am-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lori L. Coletta

Lori L. Coletta
Primary Examiner
Art Unit 3612

llc

October 22, 2004